

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-44082-2020

Date of Decision : July 28, 2022

Chaman Lal @ Pamma

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CRM-M-24779-2021

Yashpal @ Yasu

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr.Amit Dudeja, Advocate,
 for the petitioner in CRM-M-44082-2020

Mr.Maninder Singh, Advocate
for the petitioner in CRM-M-24779-2021

Mr.N.S.Panwar, DAG Haryana

JASGURPREET SINGH PURI . J. (Oral)

Both these petitions are taken up together for final disposal with the consent of learned counsel for the parties, since the prayer made in both the petitions filed under Section 439 of the Code of Criminal Procedure is for the grant of regular bail to the petitioners arising out of the same FIR No.83 dated 28.06.2018 under Sections 148, 149, 302, 307, 323,

427,506,201 and 120-B of the Indian Penal Code and Sections 25, 30 of the Arms Act, 1959 (Sections 54 and 59 of the Arms Act, added later on) and Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities), Act, 1989, registered at Police Station Kalka, District Panchkula.

It has been submitted by Mr.Dudeja, learned counsel for the petitioner in CRM-M-44082-2020 that it is a case where as per the prosecution story, 30 boys had come in 6 cars and they started shooting which resulted in the death of one person namely Vikram @ Vicky Chemy and 3 more persons were also injured. The FIR was lodged on the basis of complaint made by one Yograj @ Pinki and so far as the role assigned to the petitioner-Chaman Lal in the FIR was that he had fired from a .12 bore gun and so far as the role assigned to the other petitioner namely Yashpal @ Yasu is that he had chased and thereafter started firing. He submitted that there are total 37 accused in the present case, out of which 27 accused have already been granted bail either by the Apex Court, different coordinate Benches of this Court or by the learned Sessions Court, including the person who was the mastermind of the present case namely Sham Lal. Both the learned counsel appearing on behalf of the petitioners submitted that so far as the petitioner-Chaman Lal is concerned, he is in custody from 16.07.2018 and the petitioner Yashpal @ Yasu is in custody from 01.07.2018 and in this way, the custody of both the petitioners is more than 4 years. Learned counsel for the petitioners further submitted that both the petitioners were falsely implicated and they have suffered incarceration for more than 4 years and as of now 12 witnesses have already been examined out of 56

witnesses. They submitted that all the material witnesses have been examined. The complainant Yograj did not support the prosecution version and did not identify the petitioners and the other co-accused and was thereafter declared hostile. Similarly, the other injured also did not support the prosecution version and they were also declared hostile. Learned counsel submitted that all the material witnesses in the present case have already been examined. Learned counsel also brought to the notice of this Court various orders at Annexures P-3 to P-27 in CRM-M-24779-2021, passed by the Apex Court, coordinate Benches of this Court or by the learned Sessions Court whereby 27 co-accused who were at parity with the petitioners were granted bail. They submitted that the further trial may take long time and they have already faced incarceration for more than 4 years, therefore they may be considered for grant of regular bail.

On the other hand, Mr.N.S.Panwar, DAG Haryana, has submitted that it is correct that both the petitioners are in custody for more than 4 years and the material witnesses have already been examined and that the complainant and the other injured did not support the prosecution version. He has also not disputed that the other 27 co-accused have already been granted regular bail either by the Apex Court, coordinate Benches of this Court or by the Sessions Court. He has however opposed the grant of regular bail to the petitioners on the ground that so far as the petitioner Chaman Lal is concerned, he is involved in 10 more cases in the State of Himachal Pradesh and during investigation a countrymade revolver was recovered from him and some empty cartridges from the site which matched with the countrymade revolver. So far as the petitioner-Yashpal is

concerned, he is also involved in 1 more case and from him also a countrymade revolver was recovered during the course of investigation. However, learned counsel for the petitioners while replying to the arguments raised by learned State counsel submitted that as per the FIR, the petitioner-Chaman Lal had fired from a .12 bore gun but as per the prosecution the recovery shown to be a countrymade pistol which was therefore clearly a planted case against the petitioner and so far as the pendency of other cases against the petitioner concerned all the cases pertaining to simple injuries and are triable by the Magistrate except one case under Section 307 IPC. Learned counsel for the petitioner-Yashpal, submitted that as per the FIR, he did not fire upon anybody but recovery of a countrymade pistol has been planted upon him.

I have heard the learned counsel for the parties.

Both the petitioners are in custody for more than 4 years and the material witnesses have been examined including the complainant and the injured and these witnesses have turned hostile since they did not support the prosecution version as per learned counsel for the parties. This Court would also consider the aspect that other 27 co-accused some of them were also named in the FIR and specific roles were attributed to them, have been granted bail long back either by the Apex Court, coordinate Benches of this Court or by the learned Sessions Court vide Annexures P-3 to P-27. At that point of time, in some of the cases after framing of the charges and before even the start of the prosecution witnesses, the bail was granted whereas in the present case even the material witnesses have been examined but they have not supported the prosecution version. The petitioners have

already faced incarceration for more than 4 years. The pendency of some cases against the petitioners would not come in their way for considering the grant of bail.

Considering the aforesaid facts and circumstances of the cases, this Court is of the view that the petitioners are entitled for grant of regular bail. Consequently, the present petitions are allowed. The petitioners Chaman Lal @ Pamma and Yashpal @ Yasu shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the cases and is meant for the purpose of deciding the present petitions only.

(JASGURPREET SINGH PURI)

JUDGE

28.07.2022

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Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No